

U0. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LINDA L. NELSON and U.S. AIR FORCE,  
HILL AIRFORCE BASE, Utah

*Docket No. 96-1047; Submitted on the Record;  
Issued February 10, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly denied appellant continuation of pay for the period after March 1, 1995 except for absences on March 3, 1995, March 7 to March 21, 1995 and April 4, 1995.

On February 28, 1995 appellant, then a 45-year-old contract negotiator, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that she injured her back and left hand when she fell while climbing some steps into the building.

The Office accepted appellant's claim for lumbar sprain, sprain of neck and contusion of left hand on June 20, 1995 and requested appellant submit medical evidence regarding the extent of any employment-related disability.

In a form dated March 10, 1995, Dr. Carl A. Mattsson, an attending Board-certified orthopedic surgeon, noted that appellant had injured her back at work on February 28, 1995. It was also noted that appellant had injured her back the previous year when she was lifting and moving furniture.

In a letter dated March 14, 1995, Dr. Mattsson, stated that appellant was under his care for her back and that she could return to work on March 20, 1995

The record contains medical charts from Dr. Mattsson indicating that he treated appellant on March 7, 8, 13, 14 and March 16, 1995

In a letter dated April 4, 1995, Dr. Mattsson stated that appellant was under his care for her back and that she was off work on March 20, 22 through 24, and 27 through 29, 1995 and April 3 through 4, 1995.

In a letter dated April 18, 1995, Dr. Mattsson indicated that appellant was injured on February 28, 1995 and under his care for her back. Dr. Mattsson also stated that appellant has been unable to work during the period February 28 to March 3, 1995.

In a letter dated October 30, 1994,<sup>1</sup> the Office informed Dr. Mattsson that he submitted chart notes for March 3 and 14, April 4 and May 25, 1995. The Office advised the physician of the deficiency in the evidence he submitted on appellant's behalf.

In a letter decision dated January 30, 1996, the Office found that appellant was not entitled to continuation of pay after March 1, 1995 as the medical evidence of record was insufficient to support absences from work except for March 3, March 7 to March 21 and April 4, 1995.<sup>2</sup>

The Board finds that the Office properly denied appellant continuation of pay for the period after March 1, 1995 except for absences on March 3, March 7 to March 21, 1995 and April 4, 1995.

A claimant seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of proof to establish the essential elements of her claim by the weight of the evidence,<sup>4</sup> including that she sustained an injury in the performance of duty and that any specific condition or disability for work for which she claims compensation is causally related to that employment injury.<sup>5</sup>

The Office accepts that appellant sustained an injury in the performance of duty on February 28, 1995. Appellant must therefore establish that the accepted employment injury caused disability for the periods claimed.

"Disability" means incapacity, because of employment injury, to earn the wages that the employee was receiving at the time of injury.<sup>6</sup> When the medical evidence establishes that the residuals of an employment injury are such that, from a medical standpoint, they prevent the employee from continuing in her

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<sup>1</sup> The Board notes that this is a typographical error and the year is supposed to be 1995.

<sup>2</sup> On February 22, 1996 the Office issued a decision denying appellant continuation of pay for the period May 17 to May 25, 1995. The Board does not have jurisdiction to consider the Office's February 22, 1996 decision as it was issued subsequent to appellant's appeal on February 15, 1996 of the Office's denial of continuation of pay for the period after March 1, 1995 except for absences on March 3, March 7 to March 21 and April 4, 1995. As the issue is not the same as the issue currently before the Board, the February 22, 1996 decision need not be considered null and void.

<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Nathaniel Milton*, 37 ECAB 7112 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and the cases cited therein.

<sup>5</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>6</sup> *Richard T. DeVito*, 39 ECAB 668 (1988); *Frazier V. Nichol*, 37 ECAB 528 (1986); *Elden H. Tietze*, 2 ECAB 38 (1948); 20 C.F.R. § 10.5(17).

employment, she is entitled to continuation of pay or monetary compensation for any loss of wage-earning capacity resulting from such incapacity.<sup>7</sup>

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a reasoned medical opinion that supports a causal connection between the claimed disability and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury, and must explain medically how the claimed disability is related to the injury.<sup>8</sup>

The medical evidence in this case contains no such medical opinion. The record also contains evidence that appellant injured her back prior to the accepted employment injury. Dr. Mattsson indicated that he treated appellant for her back and noted that she had been injured on February 28, 1995. Dr. Mattsson also stated that appellant was off work on March 22 to 24 and 27 to 29 and April 4, 1995, but did not give any explanation stating how appellant's claimed disability is related to her employment injury. Because the medical evidence fails to support that appellant was disabled for the dates claimed due to her accepted employment injury, she is not entitled to continuation of pay or monetary compensation for those dates.

The decision of the Office of Workers' Compensation Programs dated January 30, 1996 is hereby affirmed.

Dated, Washington, D.C.  
February 10, 1998

Michael J. Walsh  
Chairman

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>7</sup> *Bobby W. Hornbuckle*, 38 ECAB 626 (1987); 20 C.F.R. § 10.201.

<sup>8</sup> *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).